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Issued October 4, 1937

G. R.—A. A. A. Series G, No. 1

UNITED STATES DEPARTMENT OF AGRICULTURE

U.S. AGRICULTURAL ADJUSTMENT ADMINISTRATION

WASHINGTON, D. C.

(General Regulations, Series G, No. 1, including Amendment No. 1, issued September 7, 1937, and Amendment No. 2, issued October 4, 1937)

REGULATIONS GOVERNING MEDIATION AND ARBITRATION UNDER SECTION 3 OF THE AGRICULTURAL MARKETING AGREEMENT ACT OF 1937

ARTICLE I. DEFINITIONS

SECTION 100.¹ As used in these regulations:

(a) The term "act" means Public Law No. 10, 73rd Congress, approved May 12, 1933, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (Public Law No. 137, 75th Congress), approved June 3, 1937.

(b) The term "Secretary" means the Secretary of Agriculture of the United States.

(c) The term "Department" means the United States Department of Agriculture.

(d) The term "Dairy Section" means the Dairy Section, Division of Marketing and Marketing Agreements, Agricultural Adjustment Administration, United States Department of Agriculture.

(e) The term "cooperative" means any association, incorporated or otherwise, which is in good faith owned or controlled by producers, or organizations thereof, of milk or its products, and which is bona fide engaged in the collective processing or preparing for market or handling or marketing, in the current of interstate or foreign commerce, of milk or its products.

(f) The term "arbitrator" means any officer or employee of the Department designated by the Secretary to arbitrate a bona fide dispute with reference to terms and conditions of the sale of milk or its products, between a producer cooperative and purchasers, handlers, processors, or distributors of milk or its products, pursuant to Section 3 (a) of the Agricultural Marketing Agreement Act of 1937; and when more than one arbitrator is designated, the term "arbitrator" means the full number designated.

(g) The term "mediator" means any officer or employee of the Department designated by the Secretary to mediate a bona fide dispute with reference to terms and conditions of the sale of milk or its products, between a producer cooperative and purchasers, handlers, processors, or distributors of milk or its products, pursuant to Section 3 (a) of the Agricultural Marketing Agreement Act of 1937.

ARTICLE II. APPLICATIONS FOR MEDIATION OR ARBITRATION

SECTION 200. FILING. All applications for mediation or arbitration, all submissions, and all correspondence regarding mediation or arbitration shall be addressed to the Secretary, attention of the Dairy Section.

¹ The sections of these regulations are numbered according to the corresponding numbers of the articles. Thus the first section of the first article is section 100, the first section of the second article is section 200, etc.

ARTICLE III. MEDIATION

SECTION 300. APPLICATION FOR MEDIATION. An application for mediation by a cooperative shall be in writing and shall include the following information:

- (a) Names in full of the parties to the dispute and their addresses;
- (b) Description of the cooperative organization and business, including copies of the articles of incorporation or association, by-laws, membership contract, number of shares of outstanding stock, approximate portion owned by active producers; function performed in connection with the collective processing, preparing, handling, or marketing of milk or its products; and distribution of membership by States, distribution by States of plant facilities for collecting, processing, or disposing of milk or its products, business operations for year last past, including total quantity of milk and its products handled by the applicant and proportion of that quantity sold in States other than the States of production.

(c) Suggested time and place for meeting between parties and mediator.

SEC. 301. INQUIRY BY THE SECRETARY. Upon receipt of an application for mediation, the Secretary, through such officers or employees of the Department as he may designate, may make any inquiry which is deemed to be necessary or proper in order to determine whether a bona fide dispute exists.

SEC. 302. NOTIFICATION. The Secretary will notify the applicant as to whether he considers that mediation will effectuate the purpose of the act and as to whether he will mediate.

SEC. 303. ASSIGNMENT OF MEDIATOR. The Chief of the Dairy Section shall assign a mediator, from the group designated by the Secretary, to act in such capacity.

SEC. 304. MEETINGS. All meetings held pursuant to Article III hereof shall be held with and under the direction of the mediator.

SEC. 305. MEDIATOR'S REPORT. The mediator, upon the completion of mediation proceedings, shall submit to the Secretary a complete report on such proceedings.

SEC. 306. MEDIATION AGREEMENT. An agreement arrived at by mediation shall not become effective until approved by the Secretary, and the Secretary will not approve an agreement if there is evidence of fraud, if there is a lack of evidence to support the agreement, or if the agreement provides for any unfair trade practices.

ARTICLE IV. ARBITRATION

SECTION 400. APPLICATION FOR ARBITRATION. An application for arbitration by a cooperative shall be in writing and shall contain the following information:

- (a) Names in full of the parties to the dispute and their addresses;
- (b) The same information required under Article III, section 300 (b) hereof;
- (c) Concise statement of dispute to be submitted;
- (d) Originals or certified copies of all contracts, if any, involved in the dispute, and of correspondence which has passed between the parties, and of any other documents or information relied upon;
- (e) Dates before which it is desired that the hearing shall be had and the award shall become effective;
- (f) Suggested time and place for arbitration hearing.

The applicant shall send a copy of the application to each other party to the dispute.

SEC. 401. INQUIRY BY THE SECRETARY. Upon receipt of an application for arbitration, the Secretary, through such officers or employees of the Department as he may designate, may make any inquiry deemed to be necessary or proper to determine whether a bona fide dispute exists, assist the parties in reducing the dispute to well-defined issues, and select the arbitrator who would be satisfactory to all parties.

SEC. 402. NOTIFICATION. The Secretary, within a reasonable time after the receipt of an application, will notify the applicant as to whether he will grant the application.

SEC. 403. SUBMISSION. A. Within a reasonable time after the receipt of the Secretary's consent to arbitrate, the parties to the dispute shall file with the Secretary a formal submission, which shall contain the following information:

- (a) Names in full of the parties;
- (b) Addresses of the parties to whom all notifications and communications concerning the arbitration shall be sent;
- (c) Description of the organization and businesses of all parties to the dispute, including sufficient information to show that the co-operative is a bona fide one, and that the parties are engaged in interstate commerce;
- (d) Concise statement of the specific questions submitted and a brief outline of the contentions of each party to the dispute concerning which facts will be presented at the hearing, and a statement as to the period during which the award shall be in effect, said period to be not less than thirty days from the effective date of the award;
- (e) Name of arbitrator;
- (f) Time and place of arbitration, including street address;
- (g) Stipulation by the parties that they will produce any books, records and correspondence required by the arbitrator as being necessary to a fair determination of the dispute;
- (h) Agreement by the parties that they will consider the award as final and will comply therewith;
- (i) Stipulation by the parties that arbitration is to take place under rules and regulations issued by the Secretary, and that any such rules and regulations pertaining to mediation and arbitration shall be considered a part of the submission;
- (j) Stipulation that stenographic report of the proceedings must be made.

B. The submission shall be signed by each party before a notary public, and when the signature is that of an agent of a corporation or cooperative association, the same shall be accompanied by evidence of the authority to sign.

C. A submission may be withdrawn at any time before the award, and any question held by the arbitrator to be a separable question may be withdrawn before award by agreement of all parties. When any question is so withdrawn, the parties shall file with the arbitrator the agreement on that question reached by the parties, showing all the details thereof, and the arbitrator shall include it in the record of the arbitration.

SEC. 404. DESIGNATION OF ARBITRATOR. The Secretary, after receiving the submission, will designate one or more persons to act as arbitrator.

SEC. 405. HEARING. A. The arbitrator shall have full discretion to conduct the hearing in such manner as will, in his opinion, enable him to ascertain all the facts in the case.

B. Parties to the dispute may appear in person or by duly accredited agents and may be represented by counsel.

C. All relevant and material evidence may be presented, and the arbitrator shall not be bound by the legal rules of evidence.

D. The arbitrator, in the presence of the parties, may require the production of books and records for examination by himself, but not for examination of confidential information by other parties to the dispute, unless the party producing the same consents to its examination by the other parties to the dispute.

E. No evidence offered by one party shall be received except in the presence of all parties unless the parties so agree in a submission specifying the nature of the evidence to be received, but final determination as to what will be considered confidential shall be made by the arbitrator.

F. The arbitrator may request the opinions of economists, marketing specialists, statisticians, lawyers, accountants, and other experts.

G. When two or more arbitrators are designated to hear a dispute, and they disagree, the award of the majority shall be the final award. If the arbitrators are evenly divided, there shall be no award.

H. A stenographic record of all the proceedings during arbitration hearing must be made.

SEC. 406. AWARD. A. An award shall be made within ten days after the close of the hearing.

B. The award shall be in writing and shall cover only points of dispute raised in the submission.

C. The arbitrator, in making the award, may use his own technical knowledge in addition to the evidence submitted by the parties.

D. The award shall state the period during which it shall be in effect, said period to be not less than thirty days from the effective date thereof; and said period may be extended by agreement among the parties upon notification thereof to the Secretary, unless or until the Secretary withdraws his approval.

E. The arbitrator shall sign the award in the presence of a notary public, or, when more than one arbitrator is designated, the arbitrators shall sign in the presence of each other.

F. Copies of the award shall be delivered to the parties by the Dairy Section.

SEC. 407. APPROVAL OF AWARD. The award shall not become effective until approved by the Secretary, and the Secretary will not approve an award if there is evidence of fraud, misconduct of the arbitrator, lack of evidence to support the award, or if the award provides for any unfair trade practice.

SEC. 408. COSTS. A. The parties jointly shall pay for the stenographic record, and a copy of the record shall be furnished by the parties to the arbitrator and shall be forwarded by him to the Secretary, ultimately to be filed in the Department.

B. The arbitrator shall not receive compensation from parties to the dispute.

ARTICLE V. CONSTRUCTION

SECTION 500. Nothing contained in these regulations shall be, or shall be construed to be, in derogation or modification of the rights of the Secretary or of the United States to exercise any jurisdiction or power granted by the act, or otherwise.